

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Jay D. Caplan *et al.* Confirmation No: 9460
Application No: 10/646,271 Group: 3768
Filed: August 22, 2003 Examiner: Rozanski,
Michael T.

For: Method and System for
Spectral Examination of
Vascular Walls Through Blood
During Cardiac Motion

Customer No.: 29127

Attorney Docket No.	0010.0006US1
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REQUEST FOR RECONSIDERATION

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

In response to the pending Office Action, mailed June 5, 2006 (Paper No. 20070523), reconsideration is requested in view of the following remarks.

A one-month extension is requested for this response.

Claims 1-27 and 29-64 remain pending in this application.

Claims 1-27 and 29-64 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-73 of copending Application No. 10/426,750 in view of Auer *et al.* US 5383,467.

Deferment of the resolution of this issue is requested until patentable matter is identified in either or both of the applications.

Claims 1-27 and 29-64 were rejected under 35 U.S.C. 103(a) as being unpatentable over Auer *et al.* (US 5,383,467) in view of Marshik-Geurts *et al.* (US Pub 2004/0024298). This rejection is respectfully traversed for the following reasons.

The Marshik-Geurts *et al.* application is not available as "35 U.S.C. 103(a)" prior art against the present application because: 1) the Marshik-Geurts *et al.* application and the invention of the present application were owned by the same person, InfraReDx, Inc., at the time that the present invention was made; and 2) the Marshik-Geurts *et al.* application does not meet the requirements of sections 35 U.S.C. 102(a)-(d). The Marshik-Geurts *et al.* application was published on February 5, 2004, after the filing date of the present application.

Thus, this rejection should be withdrawn.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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Date: August 6, 2007